

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO: 3:09-CV-13-MR-DCK**

<b>J &amp; H MACHINE TOOLS, INC., ET AL</b>	)	
	)	
<b>Plaintiffs,</b>	)	
<b>v.</b>	)	<b>ORDER</b>
	)	
<b>KAYDON RING &amp; SEAL, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**THIS MATTER** is before the Court on the jointly filed “Stipulation Regarding Defendant’s Claims against Mori Seiki U.S.A., Inc.” which the undersigned will construe as a “Motion to Re-Align the Parties and Correct the Case Caption” (Document No. 15). Having fully considered the record, the undersigned will **grant** the motion for the following reasons:

On February 27, 2009, J&H Machine Tools, Inc. (“J&H”), Mori Seiki USA, Inc. (“Mori Seiki”) and Kaydon Ring & Seal, Inc. (“Kaydon”) (collectively, the “Parties”), filed a stipulation regarding the proper party designation of Mori Seiki in this action. Essentially, the parties all agree that the caption should properly reflect that Mori Seiki is a counterclaim defendant, rather than a plaintiff in this action. The parties explain that the state action was removed to federal court on January 12, 2009, before the state court ruled on a motion to strike which would have clarified the parties’ alignment in the case. (Document No. 4).

To resolve any possible dispute, the Parties agree and stipulate that the case caption should be amended to reflect that Mori Seiki is not a plaintiff, but rather, is a defendant on Kaydon’s “Counterclaim” pursuant to Rules 13(h) and 20(a)(2) of the Federal Rules of Civil Procedure. (Document No. 15, ¶7). Rule 13(h) of the Federal Rules of Civil Procedure provides that “Rules

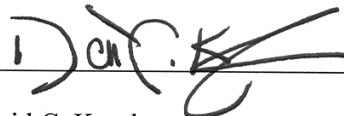
19 and 20 govern the addition of a person as a party to a counterclaim or crossclaim.” Fed.R.Civ.P. 13(h). Rule 20(a)(2) of the Federal Rules of Civil Procedure provides for the permissive joinder of parties as defendants in one action if “any question of law or fact common to all defendants will arise in the action.” Fed.R.Civ.P. 20(a)(2)(B). The parties stipulate that the case caption should reflect that Kaydon’s claims against Mori Seiki, which were filed on January 15, 2009, should be cast in the form of a counterclaim against Mori Seiki. (Document No. 5, ¶¶ 21-50).

**IT IS THEREFORE ORDERED** that:

- 1) the parties’ “Motion to Re-Align the Parties and Correct the Case Caption” (Document No. 15) is **GRANTED**; and
- 2) the Clerk of Courts is directed to correct the case caption to reflect that the party Mori Seiki is a counter-claim Defendant, not a Plaintiff.

**IT IS SO ORDERED.**

Signed: March 23, 2009

  
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David C. Keesler  
United States Magistrate Judge

